

SUFFOLK COUNTY SANITARY CODE - ARTICLE 6

Realty Subdivisions, Developments And Other Construction Projects

§760-601 Definitions

As used in this Code, unless the context otherwise requires:

A. Clustered Realty Subdivision means a realty subdivision consisting of one or more relatively undersized parcels, which is designed in such a manner so as to allow a substantial unimproved portion of the tract to stand open and uninhabited.

B. Commercial or Industrial Center means a realty subdivision or development to be used for non-residential purposes.

C. Community Sewerage System means a system utilized for the collection and disposal of sewage or other waste of a liquid nature, including the various devices for the treatment of such wastes, serving more than one parcel, whether owned by a municipal corporation, private utility, or otherwise.

D. Community Water System means a source of water and necessary appurtenances together with a distribution system serving more than one parcel, whether owned by a municipal corporation, private utility, or otherwise.

E. Department means the Suffolk County Department of Health Services.

F. Developer means any person or group of persons, or any legally cognizable entity or entities or any combination of the foregoing, who:

1. is undertaking or participating in the establishment of a realty subdivision or other construction project:

a. either individually, or

b. pursuant to a common scheme, plan or venture, or

2. owns, acquires, possesses, controls or creates a development or other construction project.

G. Development means two, three or four contiguous parcels located wholly or partially within the County of Suffolk, or any tract of land located wholly or partially within the County of Suffolk which has, is or will be divided into two, three, or four identifiable parcels.

H. Development Rights shall be defined in the same way as under §261-a(1) of the

Town Law (McKinney's, 1995).

I. Groundwater Management Zone means any of the areas delineated in Suffolk County by the "Long Island Comprehensive Waste Treatment Management Plan (L.I. 208 Study)," as revised by the "Long Island Groundwater Management Plan," and subsequent revisions adopted by the Board identifying differences in regional hydrogeologic and groundwater quality conditions. The boundaries of the Groundwater Management Zones are set forth on a map adopted by the Board, filed in the Office of the Commissioner in Hauppauge, New York.

J. Individual Sewerage System means a single system of piping, tanks, or other facilities serving only a single parcel and disposing of sewage or other liquid waste into the soil of such parcel.

K. Individual Water Supply System means a single system of piping, tanks, or other facilities together with a source of water intended to supply only a single parcel.

L. Multi-Family Housing means dwelling units designed for occupancy by more than two separate family units.

M. Non-Residential Parcel means any parcel that is not a residential parcel.

N. Other Construction Project means other than a conventional single-family residential subdivision or development; including, but not limited to cluster subdivisions, condominiums, two-family residences, multi-family housing, commercial or industrial centers and projects, whether or not there is a split of land involved.

O. Population Density Equivalent means an expression of the quantity of domestic sewage in terms of the calculated population per unit area which would normally contribute the same amount of sewage.

P. Realty Subdivision means a realty subdivision as defined in Section 1115 of the Public Health Law of the State of New York and §7-1501 of the Environmental Conservation Law as such statutes may be amended from time to time.

Q. Residential Parcel means any parcel of land of five (5) acres or less located wholly or partially in the County of Suffolk, any point on the boundary line of which is less than one-half mile from any point on the boundary line of another such lot in the same tract, unless any such lot may not legally be used for residential purposes. Without limiting the generality of the foregoing, the term residential shall include temporary, seasonal and permanent residential use.

R. Sewage Collection and Treatment Systems means the structures, devices and processes installed for the purposes of collecting, treating and disposing sewage and sludge.

S. Subsurface Sewage Disposal System means the septic tank and leaching pools and interconnecting piping.

T. Tract means any real property, including contiguous parcels of land, which is held, owned, controlled or possessed, either singularly, jointly, commonly or otherwise, by a person or group of persons, or any legally cognizable entity or entities, or any combination of the foregoing, who are acting with reference to such body of land in concert or as part of a common scheme, plan or venture.

U. Transfer of Development Rights means the process by which development rights are transferred from one lot, parcel or area of land to another designated lot, parcel or area where increased density development is permitted by the Suffolk County Sanitary Code.

V. Two-Family Residence means a dwelling unit designed for occupancy by two separate family units.

§760-602 Department Approval of Realty Subdivision, Development, or Other Construction Project Plans

A. No developer shall after the effective date of this Article:

1. engage in the creation of a realty subdivision, or sell, rent, offer for sale or lease any parcel in a realty subdivision unless Department approval has been obtained of the existing or proposed water supply and sewage disposal facilities in the subdivision;
2. engage in the creation of a development, or lease, rent, give, devise, or otherwise dispose of any parcel in a development, or erect or cause to be erected any permanent building on any parcel in the development unless Department approval has been obtained for the existing or proposed water supply and sewage disposal facilities in the development;
3. engage in the creation of a construction project, or erect or cause to be erected any permanent building unless Department approval has been obtained for the existing or proposed water supply and sewage disposal facilities.

B. A tract of land which is divided shall constitute a development or realty subdivision notwithstanding:

1. the method or purpose of such division, or the allowable types of use applicable to such tract, whether commercial, residential, industrial, or other authorized use under local ordinances;
2. the method used to describe such tract whether by metes and bounds, or by reference to a map of the property, or otherwise.

§760-603 Applications for Approval

A. Applications for Department approval of existing and/or proposed water supply and sewage disposal facilities, as required by §760-602 above, shall:

1. conform with the standards and regulations prescribed in this Code; and
2. conform with all other Department bulletins, regulations, and requirements; and
3. be made on forms provided by the Department; and
4. be accompanied by such maps, plans, reports, specifications, and data as the Department may require or direct.

B. Plans other than those for community water and/or sewerage systems shall indicate water and/or sewerage systems located upon each parcel.

C. Plans other than those for community water and/or sewerage systems shall not propose to furnish water to more than one parcel and/or dispose of sewage from more than one parcel.

D. Where the developer proposes to obtain and furnish water supply and/or sewerage facilities for a realty subdivision, development, or other construction project by connection to an existing community water and/or sewerage system, the developer shall supply the Department with a certification in writing by the owner of the utility that such facilities will be furnished and kept available in good operating condition for the realty subdivision, development, or other construction project.

E. The Department, in its discretion, may require the developer to furnish a performance bond to the owner of such utility conditioned upon the developer's making connection to the utility within a specified reasonable period of time.

§760-604 Filing Requirements

Every developer who obtains Department approval of a realty subdivision or development, as required by §760-602, shall thereafter file a map of such realty subdivision or development, bearing the stamp of approval of the Department, in the Office of the Clerk of the County of Suffolk within one (1) year of the date of approval of the Department.

§760-605 Sewage Facilities Requirements for Conventional Single-Family Residential Realty Subdivisions and Developments

A. A community sewage system method of sewage disposal is required when any of the following conditions are present:

1. the realty subdivision or development, or any portion thereof, is located within an existing sewer district;
 - a. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the sewerage system to the existing sewer district.
2. the realty subdivision or development is located in an area where the subsoil or groundwater conditions are not conducive to the proper functioning of individual sewerage systems;
3. the realty subdivision or development is located outside of Groundwater Management Zones III, V and VI, and any parcel in the realty subdivision or development is less than 20,000 square feet in area, unless the realty subdivision or development meets the population density equivalent requirements of paragraph B.1 of this section; or
4. the realty subdivision or development is located within Groundwater Management Zones III, V or VI, and any parcel in the realty subdivision or development is less than 40,000 square feet in area, unless the realty subdivision or development meets the population density equivalent requirements of paragraph B.2 of this section.

B. Individual sewerage systems may be approved by the Department as to the method of sewage disposal provided all of the following conditions are met:

1. the realty subdivision or development is located outside of Groundwater Management Zones III, V and VI, and all parcels of the realty subdivision or development consist of an area of at least 20,000 square feet; or the realty subdivision or development has a population density equivalent equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 20,000 square feet;
2. the realty subdivision or development is located within Groundwater Management Zones III, V or VI, and all parcels in the realty subdivision or development consist of an area of at least 40,000 square feet; or the realty subdivision or development has a population density equivalent equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet;

3. the realty subdivision or development, or any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of individual sewerage systems; and
4. the individual sewerage systems comply with the Department's current Standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County; and
5. the requirements of §760-606 hereof are complied with.

C. Parcels in realty subdivisions or developments of less than 40,000 square feet in area within Groundwater Management Zones III, V or VI may be permitted using transfer of development rights in conformance with standards established by the Department.

D. Parcels in realty subdivisions or developments of less than 20,000 square feet in area within Groundwater Management Zones I, II, IV, VII or VIII may be permitted using transfer of development rights in conformance with standards established by the Department.

§760-606 Water Facilities Requirements for Conventional Single-Family Residential Realty Subdivisions and Developments

A. A community water system method of water supply is required when any of the following conditions are present:

1. the realty subdivision or development, or any portion thereof, is located within an existing water district or service area; or
2. the realty subdivision or development is reasonably accessible to an existing water district or service area; or
 - a. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the water system to the existing water district or service area facilities.
3. individual wells cannot provide an average yield of five (5) gallons per minute of fresh, potable water; or
4. groundwaters in the area are non-potable, or potentially hazardous; or
5. any parcel in the realty subdivision or development is less than 40,000 square feet in area.

B. The following are minimum requirements for community water systems:

1. Community water systems shall be capable of delivering water at an average rate of 100 gal/capita/day when service connections are un-metered, or 75 gal/capita/day when service connections are metered.
2. Community water systems shall be designed to deliver water meeting the quality requirements of the New York State Sanitary Code.
3. Community water systems shall provide for continuity of water service to the satisfaction of the Commissioner.
4. The community water supply system shall have at least two (2) separate wells as a source of supply.
5. Community water systems shall have at least one day's available storage at design average consumption.
6. The relevant provisions of Part 5 of the New York State Sanitary Code and Bulletin 42 of the New York State Department of Health entitled "Recommended Standards for Water Works" will be the basis upon which all plans, specifications and reports for community water systems will be reviewed for approval by the Department.

C. Individual water supply systems may be approved by the Department as the method of water supply for a realty subdivision or development, provided all of the following conditions are met:

1. all parcels in the realty subdivision or development consist of an area of at least 40,000 square feet; and
2. the realty subdivision or development, or any portion thereof, is not located within an existing water district or service area and is not reasonably accessible thereto, and individual wells can provide an average yield of five (5) gallons per minute of fresh potable water; and
3. the individual water supply systems comply with the Department's current Standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County.

§760-607 Sewage Facilities Requirements for Construction Projects Other Than Conventional Single-Family Residential Realty Subdivisions and Developments

A. A community sewerage system method of sewage disposal is required for other construction projects when any of the following conditions are present:

1. the construction project is located within Groundwater Management Zones III, V or VI, and the population density equivalent is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet;
2. the construction project is located outside of Groundwater Management Zones III, V and VI, and the population density equivalent is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 20,000 square feet;
3. the construction project, or any portion thereof, is located within an existing sewer district;
 - a. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation of the sewerage system to the existing sewer district.
4. the construction project is located in an area where the subsoil or groundwater conditions are not conducive to the proper functioning of individual or subsurface sewerage systems.

B. Individual or subsurface sewerage systems may be approved by the Department as to the method of sewage disposal for a construction project provided all of the following conditions are met:

1. the construction project is located within Groundwater Management Zones III, V or VI, and the population density equivalent is equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet;
2. the construction project is located outside of Groundwater Management Zones III, V and VI, and the population density equivalent is equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 20,000 square feet;
3. the construction project, or any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of individual or subsurface sewerage systems; and
4. the individual sewerage or subsurface systems comply with the Department's current Standards and the minimum State requirements as set forth in 10NYCRR, Part 75, to the extent applicable to Suffolk County.

C. Modified subsurface sewage disposal (denitrification) systems may be approved by the Department as a method of sewage disposal for a construction project, provided all of the following conditions are met:

1. the construction project is located either:
 - a. within Groundwater Management Zones III, V, or VI, and the population density equivalent is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet; or
 - b. outside of Groundwater Management Zones III, V, or VI, and the population density equivalent is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 20,000 square feet; and
2. the construction project, or any portion thereof, is not located within an existing sewer district, or does not have the ability to connect to an existing sewer district as shown by proof satisfactory to the Department that the developer cannot effect arrangements for the connection of the project to the existing sewer district; and
3. the subsoil and groundwater conditions are conducive to the proper functioning of a modified subsurface sewage disposal system; and
4. the construction project is on a single parcel that is provided with a community water supply, which parcel is not part of a subdivision or development that is proposed or has already been approved by the Department; and
5. the modified subsurface sewage disposal system is capable of producing a discharge of no more than 10 mg/l total nitrogen in the effluent stream where the total design sewage flow for the parcel (kitchen and sanitary) does not exceed 15,000 gallons per day; and
6. if an application for approval is received by the Department after February 9, 1989, two irrevocable letters of credit are issued by a bank located in New York to the Department in accordance with the following conditions:
 - a. the total amount of the two letters of credit shall equal the estimated cost of the modified subsurface sewage disposal system (the "system"), as certified by the professional engineer who designed the system and accepted by the Department as a reasonable estimated cost (the "estimated cost"); and
 - b. the first letter of credit shall be in an amount equal to 65% of said estimated cost and shall be known as the "construction letter of credit"; and
 - c. the second letter of credit shall be in an amount equal to 35% of said estimated cost and shall be known as the "second construction letter of

credit" until the final modified subsurface sewage disposal system is approved by the Department, and thereafter shall be converted to and be known as the "modification letter of credit"; and

d. the construction letter of credit and the second construction letter of credit shall be callable by the Department simultaneously upon terms and conditions to be satisfactory to the Department to assure that the system is properly constructed; and

e. if the construction letter of credit and the second construction letter of credit are called by the Department, the proceeds thereof shall be held by the Department and shall not be released until the system is completed and is approved by the Department (except nothing contained herein shall prevent application of the proceeds by the Department for a lawful purpose requested by the Department and authorized by a court of law); and

f. the construction letter of credit shall be released only upon approval by the Department of the completed system and proof satisfactory to the Department that the second letter of credit has been converted to a modification letter of credit; and

g. the modification letter of credit shall serve as security to assure that any required modification of the installed system is achieved, and said letter of credit shall be released only upon a showing certified by a professional engineer, and accompanied by findings of a certified testing laboratory reasonably consistent with any independent findings of the Department, that, for a period of three consecutive months, the monthly average effluent total nitrogen, based on no fewer than bi-weekly samples, did not exceed 10 mg/l, and building occupancy averaged over three months was not less than 80% of floor space, and actual flow was not less than 50% of design flow; and

7. a one-time non-refundable payment equal to \$1.00 per gallon of total daily design sewage flow (kitchen and sanitary) is deposited into an interest-bearing account maintained by the Department, which monies are to be used by the Department exclusively for the following purposes:

a. to undertake all necessary environmental review of a proposed permanent amendment to the Code which, if adopted, will give express authorization to the Department to approve modified subsurface sewage disposal systems, which review is necessitated by the Board's positive declaration pursuant to the State Environmental Quality Review Act on January 17, 1989 (Upon completion of the environmental review process and payment of all costs associated therewith, the above one-time non-refundable payment shall be reduced to \$0.50 per gallon of total daily

design sewage flow [kitchen and sanitary] for all applications pending or received after the reduction to \$0.50.); and

b. to provide maintenance, sampling, and analysis of samples required by applicable Standards or permits at facilities in Suffolk County serviced by a modified subsurface sewage disposal system, where, despite written notice to the owner and/or operator of the facility from the Commissioner that said maintenance, sampling, or analysis must be performed by a specified date, the owner and/or operator of the facility fails to comply (Owners or operators of facilities with modified subsurface sewage disposal systems that exist as of the effective date of this provision shall pay the sum required by this subdivision upon renewal of the State Pollutant Discharge Elimination System Permit for the facility); and

8. the construction project provides for an unpaved and uncovered area for expansion of the modified subsurface sewage disposal system that, at the option of the applicant, is either equal in size to 150% of the area of the installed modified subsurface sewage disposal system or is sufficient to allow for the installation of a sewage treatment plant in the event that the modified subsurface sewage disposal system fails to meet the requirements of its SPDES permit (This requirement is applicable to all applications received after February 9, 1989; applications pending as of February 9, 1989 must provide for an unpaved and uncovered area for expansion of the modified subsurface sewage disposal system that is equal in size to 50% of the area of the installed modified subsurface sewage disposal system.); and

9. the modified subsurface sewage disposal system complies with the Department's current Standards and the minimum State requirements as set forth in 10NYCRR, Part 75, to the extent applicable to Suffolk County.

D. Enforcement of Directives issued by the Commissioner pursuant to §760-607.C.7. Whenever the owner or operator of a modified subsurface sewage disposal system fails to comply with a written directive issued by the Commissioner pursuant to §760-607.C.7 to provide any maintenance, sampling, or analysis required by applicable standards or permits, the Commissioner may provide said maintenance, sampling or analysis with funds contained in the interest-bearing account described in §760-607.C.7, and may thereafter bring a civil action to recover said sums expended plus interest from the owner and/or operator of the facility where the modified subsurface sewage disposal system is located.

1. The obligation imposed upon the owner and/or operator of a facility with a modified subsurface sewage disposal system by any applicable Standard or permit to provide maintenance, and to take and analyze samples, is a continuing obligation.

2. Nothing contained herein shall be construed to require the Commissioner or

the Department to provide maintenance, sampling, or analysis of any system, and the failure of the owner or operator to comply with the requirements of applicable Standards or permits with regard to maintenance, sampling, or analysis shall subject the owner and/or operator of the facility to civil penalties pursuant to §760- 218.2 of this Code for each day the required maintenance, sampling, or analysis is not performed, and may further subject the owner and/or operator of the facility to any other civil penalty provided for in any applicable code, statute, or regulation.

E. Construction projects within Groundwater Managements Zones III, V or VI may have a population density equivalent to a single-family residential subdivision or development with parcels less than 40,000 square feet in area using transfer of development rights in conformance with standards established by the Department.

F. Construction projects within Groundwater Management Zones I, II, IV, VII or VIII may have a population density equivalent to a single-family residential subdivision or development with parcels less than 20,000 square feet in area using transfer of development rights in conformance with standards established by the Department.

§760-608 Water Facilities Requirements for Construction Projects Other than Conventional Single-Family Residential Realty Subdivisions and Developments

A. A community water system method of water supply is required when any of the following conditions are present:

1. the construction project, or any portion thereof, is located within an existing water district or service area; or
2. the construction project is reasonably accessible to an existing water district or service area; or
 - a. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the water system to the existing water district or service area facilities.
3. individuals wells cannot provide sufficient yield of freshwater meeting Department requirements or standards; or
4. groundwaters in the area are non-potable, or potentially hazardous; or
5. the construction project has a population density equivalent that is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet, or any

residential parcel that has an area of less than 20,000 square feet.

B. The following are minimum requirements for community water systems:

1. Community water systems shall be capable of delivering water at an average rate of 100 gal/capita/day when service connections are un-metered, or 75 gal/capita/day when service connections are metered.
2. Community water systems shall be designed to deliver water meeting the quality requirements of the New York State Sanitary Code.
3. Community water systems shall provide for continuity of water service to the satisfaction of the Commissioner.
4. The community water supply system shall have at least two (2) separate wells as a source of supply.
5. Community water systems shall have at least one day's average storage at design average consumption.
6. The relevant provisions of Part 5 of the New York State Sanitary Code and Bulletin 42 of the New York State Department of Health entitled "Recommended Standards for Water Works" will be the basis upon which all plans, specifications, and reports for community water systems will be reviewed for approval by the Department.

C. Individual water supply systems may be approved by the Department as the method of water supply for a construction project, provided all of the following conditions are met:

1. the population density equivalent of the construction project is equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet, and all residential parcels consist of an area of at least 20,000 square feet each; and
2. the construction project, or any portion thereof, is not located within an existing water district or service area and is not reasonably accessible thereto, and individual wells can provide sufficient yield of fresh, potable water meeting Department requirements and standards; and
3. the individual water supply systems comply with the Department's current standards and the minimum requirements of the New York State Sanitary Code.

§760-609 Variances, Waivers and Exemptions

A. Variances and Waivers. The Commissioner of the Department of Health Services, in

his discretion, and upon recommendation of the Board of Review, may grant or deny a variance or waiver from the specific sections of this Article after an application requesting such relief is made and supporting evidence has been presented to the Board of Review. The Commissioner may grant an application only if the variance or waiver will be in harmony with the general purpose and intent of this Article to protect groundwater, drinking water supplies, surface water and other natural resources, and public health, safety and welfare.

1. The determination whether the variance or waiver will be in harmony with the general purpose and intent of this Article shall be made upon findings relating to the following criteria:

- a. Whether the use is in general conformity with this Article;
- b. Whether the uses of groundwater, surface water, and drinking water supplies will be impaired, taking into account the direction of groundwater flow;
- c. Whether the application of the proposed variance or waiver to other parcels within the same groundwater management zone will unreasonably impair groundwater, surface water, and drinking water supplies;
- d. Whether the application conforms to a comprehensive groundwater management plan;
- e. Whether granting the proposed variance or waiver will adversely affect the design of an adequate on-site water supply and/or sewage disposal system, taking into account soil conditions, depth to groundwater, direction of groundwater flow, and site-specific physical conditions;
- f. Whether the amount of sewage flow from the project based upon sewage flow design criteria will adversely affect groundwater, surface water and drinking water supplies;
- g. Whether the application can be modified so that the project will not violate the Sanitary Code;
- h. Whether an application for a variance or waiver to another municipal entity would obviate the need for consideration of the application before the Board, and if it would, whether such application has been made and ruled upon;
- i. Any other factor which the Review Board in its discretion deems necessary to consider in order to determine whether the granting of a variance or waiver will be in harmony with the general purpose and intent of this Article, provided that the applicant is given notice of the additional factors and reasonable opportunity to present evidence to the Board with

regard thereto.

2. Economic injury alone cannot provide the basis for a variance or waiver from this Article.

3. In all proceedings before the Board of Review, the burden of proof of demonstrating that a variance or waiver should be granted shall be on the applicant.

B. Exemptions. Requirements of this Article shall not apply to:

1. realty subdivisions which have previously been approved by the New York State Department of Health, and have been filed in the Office of the Clerk of the County of Suffolk;

2. developments or other construction projects which have previously been approved by the Department;

3. developments or other construction projects, other than realty subdivisions, which have been approved by a town or village planning or zoning board of appeals prior to January 1, 1981, and which met the requirements of the Department in effect at that time;

4. density requirements for one-family residences on parcels which appeared as separately assessed on the Suffolk County Tax Map as of January 1, 1981, which presently constitutes a buildable parcel under applicable municipal zoning ordinances and which met the Department requirements in effect on January 1, 1981. No automatic waiver of these requirements of this Article shall be granted where five (5) or more of such parcels are owned by a developer.

(Adopted 11/19/1980; Amended 4/15/1981, 6/3/1981, 6/24/1981, 1/12/1983, 4/9/1986, 6/25/1986, 1/14/1987, 3/4/1987, 3/8/1989, 5/24/1989, 1/24/1990, 9/30/1992, 6/28/1995)
